

STATE OF MAINE

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

BUREAU OF INSURANCE

IN RE: REVIEW OF AGGREGATE
MEASURABLE COST SAVINGS)
DETERMINED BY DIRIGO HEALTH)
FOR THE SECOND ASSESSMENT)
YEAR)

Docket No. INS-06-900)

FILING COVER SHEET

TO: Superintendent, Bureau of Insurance
Attn: Vanessa J. Leon

DATE FILED: July 5, 2006

PARTY: Maine Association of Health Plans

DOCUMENT: MEAHP's Opposition to the DHA Board's
Motion to Reconsider

DOCUMENT TYPE: Opposition to Motion

CONFIDENTIALITY: None

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**STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE**

IN RE: DETERMINATION OF)	MEAHP'S OPPOSITION TO THE DHA
AGGREGATE MEASURABLE)	BOARD'S MOTION TO RECONSIDER
COST SAVINGS FOR THE SECOND)	
ASSESSMENT YEAR)	

Docket No. INS-06-900

July 5, 2006

NOW COMES the Maine Association of Health Plans ("MEAHP"), by and through its counsel, with this Opposition to a Motion to Reconsider filed on June 30, 2006, by the Board of Directors of the Dirigo Health Agency ("the Board").

By Order dated June 26, 2006, the Superintendent denied the Board's Motion for Leave to Present Additional Evidence, reasoning that his role was to determine whether the Board's June 6, 2006, decision was reasonably supported by record evidence. In other words, the Superintendent's job is to review the record as it existed before the Board.

With its Motion to Reconsider, however, the Board persists in asking the Superintendent to review information that was not presented to the Board and so is not part of the record in this case. In doing so, the Board seeks to revise the record with respect to three of the four categories of putative savings under consideration – Hospital Savings Initiatives, Uninsured Initiatives, and CON/CIF Initiatives. If the Superintendent accedes to the Board's request, the nature of the upcoming hearing will be transformed dramatically.

By Order dated June 30, 2006, the Superintendent established a fine schedule for oral argument on July 12 based on an extant record which all parties have had ample time to review. But if the Board is allowed to present new evidence (whether through pre-filed testimony or at the hearing) which parties have never seen before, the hearing will become, *de facto*, a *de novo* adjudicatory hearing with respect to three of the four categories of savings, leaving the Superintendent to preside over the examination and cross-examination of witnesses and rebuttal witnesses regarding, *inter alia*, (1) the sources of the new evidence, (2) the veracity of the new evidence, and (3) the impact of the new evidence on the Board's June 6 decision.

To say the least, if the Superintendent allows the Board's Motion to Reconsider, the hearing set for July 12 could not follow the schedule for oral argument set down in the June 30 Order. Indeed, it is entirely unlikely that the July 12 hearing could proceed at all on that date. In its Opposition to the Board's initial Motion for Leave to Present Additional Evidence, MEAHP reserved its right undertake additional discovery if the Board is allowed to present additional evidence. To wit, MEAHP would seek to

1. propound information requests upon the other parties in this proceeding as may be necessary to understand the basis for the additional evidence or testimony to be presented by CAHC or the Board; and
2. offer supplemental evidence and/or testimony as may be necessary to rebut the additional evidence or testimony to be presented by CAHC or the Board.

This discovery would take time and could not be accomplished prior to July 12. It is doubtful whether time permits the Superintendent to (1) allow the necessary additional discovery, (2) review pre-filed testimony, (3) hold an evidentiary hearing, and (4) still issue a decision within six weeks from the Board's June 6 decision as is required by statute. 24-A M.R.S.A. §6913(1)(C).

For the reasons stated above, MEAHP asks that the Superintendent deny the Board's Motion to Reconsider its previously denied Motion for Leave to Present Additional Evidence.

Dated: July 5, 2006

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CERTIFICATE OF SERVICE

I hereby certify that on July 5, 2006 (before 3:00 p.m.), the foregoing document titled MEAHP's Opposition to Motions by CAHC and The Dirigo Board Regarding Additional Evidence was served electronically and two copies served via U.S. mail upon:

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I further certify that on July 5, 2006 (before 3:00 p.m.), the foregoing document was served electronically and one copy by regular U.S. Mail upon:

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